

3245

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. PHEFFER, GABRYSZAK -- Multi-Sponsored by -- M. of
A. ALFANO, BARRA, GIANARIS -- read once and referred to the Committee
on Consumer Affairs and Protection

AN ACT to amend the public service law, in relation to unauthorized
changes in suppliers of natural gas and electric service

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 11 of section 65 of the public service law, as
2 added by chapter 693 of the laws of 1985, is renumbered subdivision 12
3 and a new subdivision 13 is added to read as follows:
4 13. UNAUTHORIZED CHANGES IN NATURAL GAS OR ELECTRIC SERVICE PROHIBIT-
5 ED. (A) NO SUPPLIER OF GAS OR ELECTRIC SERVICE OR ANY PERSON, FIRM OR
6 CORPORATION ACTING AS SUCH SUPPLIER'S AGENT OR REPRESENTATIVE SHALL ON
7 BEHALF OF A CUSTOMER MAKE OR DIRECT ANY CHANGE IN A SUPPLIER OF GAS OR
8 ELECTRIC SERVICE UNLESS SUCH SUPPLIER, AGENT OR REPRESENTATIVE COMPLIES
9 WITH REQUIREMENTS TO AUTHORIZE AND VERIFY THE CHANGE. THE COMMISSION
10 SHALL HAVE THE AUTHORITY TO ESTABLISH REQUIREMENTS FOR OBTAINING THE
11 AUTHORIZATION OF A CUSTOMER TO EFFECT A CHANGE IN THE CUSTOMER'S SUPPLI-
12 ER OF GAS OR ELECTRIC SERVICE AND FOR THE VERIFICATION OF SUCH CHANGE.
13 IN CONSTRUING AND ENFORCING THE PROVISIONS OF THIS SUBDIVISION, THE ACT
14 OF ANY PERSON, FIRM OR CORPORATION ACTING AS AN AGENT OR REPRESENTATIVE
15 OF A SUPPLIER OF GAS OR ELECTRIC SERVICE SHALL BE DEEMED TO BE THE ACT
16 OF SUCH SUPPLIER OF GAS OR ELECTRIC SERVICE. FOR THE PURPOSES OF THIS
17 SUBDIVISION, "SUPPLIER OF GAS OR ELECTRIC SERVICE" SHALL INCLUDE ANY
18 PERSON, FIRM OR CORPORATION THAT OFFERS, SELLS OR DELIVERS ALL OR PART
19 OF NATURAL GAS OR ELECTRIC SERVICE, INCLUDING, BUT NOT LIMITED TO, A GAS
20 OR ELECTRIC DISTRIBUTION COMPANY, A GAS OR ELECTRIC CORPORATION, A GAS
21 OR ELECTRICITY PROVIDER, MARKETER, AGGREGATOR OR BROKER.
22 (B) THE FAILURE TO COMPLY WITH THE PROVISIONS IN THIS SUBDIVISION
23 SHALL SUBJECT A SUPPLIER OF GAS OR ELECTRIC SERVICE TO EITHER THE JUDI-
24 CIAL PENALTY AUTHORIZED IN SECTION TWENTY-FIVE OF THIS CHAPTER FOR THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 FAILURE OR NEGLECT TO OBEY OR COMPLY WITH A PROVISION OF THIS CHAPTER OR
2 THE ADMINISTRATIVE PENALTY ESTABLISHED IN THIS SUBDIVISION. IN SEEKING
3 SUCH JUDICIAL PENALTY OR ASSESSING SUCH ADMINISTRATIVE PENALTY, THE
4 COMMISSION SHALL TAKE INTO ACCOUNT THE NATURE, CIRCUMSTANCES, EXTENT,
5 GRAVITY AND NUMBER OF THE VIOLATIONS, AND WITH RESPECT TO THE VIOLATOR,
6 THE DEGREE OF CULPABILITY, ANY HISTORY OF PRIOR OFFENSES AND REPEATED
7 VIOLATIONS, AND SUCH OTHER MATTERS AS MAY BE APPROPRIATE AND RELEVANT.
8 THE REMEDIES PROVIDED BY THIS SUBDIVISION SHALL BE IN ADDITION TO ANY
9 OTHER REMEDIES PROVIDED BY LAW.

10 (C) THE COMMISSION, AFTER OPPORTUNITY FOR A HEARING, SHALL HAVE THE
11 AUTHORITY TO ASSESS DIRECTLY AN ADMINISTRATIVE PENALTY AGAINST ANY
12 SUPPLIER OF GAS OR ELECTRIC SERVICE FOR EACH VIOLATION OF THIS SUBDIVI-
13 SION OR ORDER OF THE COMMISSION IMPLEMENTING OR ENFORCING THE PROVISIONS
14 OF THIS SUBDIVISION. SUCH PENALTY SHALL NOT EXCEED ONE THOUSAND DOLLARS
15 FOR EACH VIOLATION ASSOCIATED WITH EACH METER SERVICE POINT. ALL MONEYS
16 RECOVERED FROM ANY ADMINISTRATIVE PENALTY SHALL BE PAID INTO THE STATE
17 TREASURY TO THE CREDIT OF THE GENERAL FUND.

18 (D) WHENEVER THE COMMISSION DETERMINES THAT ANY SUPPLIER OF GAS OR
19 ELECTRIC SERVICE IS VIOLATING OR ABOUT TO VIOLATE ANY PROVISION OF THIS
20 SUBDIVISION OR ANY REGULATION OR ORDER OF THE COMMISSION IMPLEMENTING OR
21 ENFORCING THE PROVISIONS OF THIS SUBDIVISION, OR HAS FAILED TO PAY ANY
22 PENALTY ASSESSED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION, THE
23 COMMISSIONER SHALL HAVE POWER TO BRING AN ACTION OR ENFORCEMENT PROCEED-
24 ING AS PROVIDED BY SECTION TWENTY-SIX OF THIS CHAPTER.

25 S 2. This act shall take effect on the one hundred twentieth day
26 after it shall have become a law; provided, however, that effective
27 immediately, the addition, amendment and/or repeal of any rule or regu-
28 lation necessary for the implementation of this act on its effective
29 date are authorized and directed to be made and completed on or before
30 such effective date.